

terminated.

47. The Commission advised Don Werlinger that it received no request for an extension of the STA.

48. The Commission advised Don Werlinger that it received no response to the Inquiry Letter.

49. On August 4, 1995, Chameleon filed a Modification Application (File No. BP950804AC) to change its community of license to Missouri City, Texas.

50. Attachment E is a true and accurate copy of the Modification Application (excluding exhibits) filed by Chameleon.

51. Don Werlinger signed, on behalf of Chameleon, the Modification Application.

52. In its Modification Application, the proposed site for KFCC's proposed permanent facilities was the second Harris County site.

53. Attachment F is a true and accurate copy of Don Werlinger's Response ("Response Letter") to the Commission's Inquiry Letter dated August 4, 1995.

54. Don Werlinger signed, on behalf of Chameleon, the Response Letter.

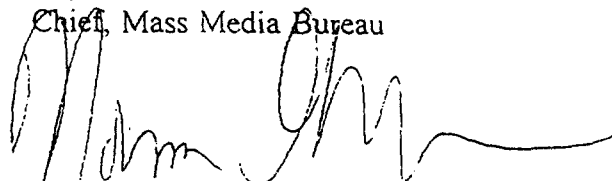
55. Attachment G is a true and accurate copy of a letter from the Chief, Audio Services Division to Chameleon on September 8, 1995 ("Division Letter").

56. The Commission indicated in the Division Letter that Chameleon had failed to provide further information to support its claim that it need to relocate the KFCC(AM) transmitter "due to loss of its current site."

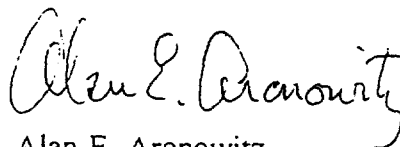
57. Chameleon's purpose for acquiring the license for KFCC(AM), Bay City, Texas, was to serve Houston.

58. Chameleon's motivation for leaving the site was its admitted "need" for an acceptable Houston broadcast signal.

Respectfully submitted,
Roy J. Stewart
Chief, Mass Media Bureau



Norman Goldstein
Chief, Complaints & Political
Programming Branch



Alan E. Aronowitz
Attorney
Mass Media Bureau

Federal Communications Commission
2025 M Street, N.W.
Suite 7212
Washington, D.C. 20554
(202) 632-6402

October 21, 1996

CERTIFICATE OF SERVICE


Natalie Moses, a secretary in the Hearing Branch, Mass Media Bureau, certifies that she has on this 21st day of October 1996, sent by regular United States mail, U.S.

Government frank, copies of the foregoing "Mass Media Bureau's First Request for

Admissions of Fact and Genuineness of Documents" to:

Chameleon Radio Corporation
c/o Gene A. Bechtel, Esq.
Bechtel & Cole, Chartered
1901 L Street, N.W.
Suite 250
Washington, DC 20036

Administrative Law Judge Joseph Chachkin
Federal Communications Commission
2000 L Street, N.W.
Suite 226
Washington, D.C. 20554


Natalie Moses

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re)
)
CHAMELEON RADIO CORPORATION)
)
Order to Show Cause Why the)
License of Station KFCC(AM),) MM Docket No. 96-173
Bay City, Texas Should Not)
Be Revoked)
)
Request for Extension of Special)
Temporary Authority)

To: The Hon. Norman Goldstein
Alan E. Aronowitz, Esq.
Mass Media Bureau

RESPONSE TO FIRST REQUEST FOR ADMISSIONS

Chameleon Broadcasting Corporation ("Chameleon") responds to the First Request for Admissions of Fact and Genuineness of Documents dated October 21, 1996 as follows:

1. Admitted.
2. Admitted.
3. Admitted.
4. Admitted.
5. Admitted.

Federal Communications Commission	
Docket No. <u>96-173</u>	Exhibit No. <u>17-B</u>
Presented by <u>MMB</u>	
Disposition	Identified <u>X</u>
	Received <u>X</u>
	Rejected _____
Reporter <u>JS</u>	
Date <u>2-24-97</u>	

6. Denied. A chronology on this score may be found in Mr.

Werlinger's letter to Mr. Eads (Attachment F) at pages 2-8.

7. Admitted.
8. Admitted.
9. Admitted.

10. Denied. Attachment A is not a complete copy, which is being furnished in Chameleon's document production.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. Denied. We defer to the language of the statement as admitted in 12 above.

18. Denied. When Chameleon made the statement admitted in 12 above, it knew that under legal documents relative to the acquisition of the radio station, it no longer had the right of access to the site.

19. Admitted.

20. Neither admitted nor denied. Mr. Werlinger's recollection is more accurately reflected in items 21 and 23 below.

21. Admitted.

22. Neither admitted nor denied. Mr. Werlinger's recollection is more accurately reflected in items 21 and 23.

23. Admitted.

24. Denied. After being informed that an STA would not be granted for an unbuilt tower, Mr. Werlinger arranged for the construction of a tower on the same site as the originally requested STA site in Harris County. There were never two different sites proposed in Harris County.

25. Admitted.

26. Admitted.

27. Denied. As set forth in 24 above, the alternate site proposed in the amended STA request is on the same site in Harris County as proposed in the initial STA request. Such is clearly demonstrated in the amended STA request on page 2 upon which both the originally requested tower and the existing tower were plotted.

28. Admitted.

29. Admitted. The amended STA request also stated "The tower in our original proposal will be the center tower of what will be a three tower array." The eventual form 301 request for the site contains a four tower array, three for use in the day pattern and a fourth for use with the night pattern.

30. Denied. The amended STA request included a map which made reference to the existing 180' tower as well as the nearby original proposal and made the statement set forth in 29 above.

31. Denied. A constructed tower existed at the Harris County site at the time the amended STA was filed on May 2, 1995.

32. Denied. Tower construction was completed at the Harris County site at the time the amended STA was filed on May 2, 1995.

33. Denied. FAA approval had been secured for construction of a 180' tower as proposed in the initial STA request, at a site located adjacent to the site of the existing tower, both of which are to be a part of the proposed three-tower array when permanent facilities are authorized.

34. Admitted.

35. Denied. Chameleon did not report to the Commission

that it had arranged for construction of the existing tower referenced in the May 2, 1995 STA amendment.

36. Denied. Chameleon arranged for construction of the existing tower referenced in the May 2, 1995 STA amendment in order to comply with a Commission requirement of which it had not previously been aware.

37. Admitted.

38. Denied.

39. Admitted.

40. Admitted.

41. Neither admitted nor denied. We defer to the language of the letter itself (Attachment D).

42. Same response.

43. Same response.

44. Same response.

45. Same response.

46. Admitted.

47. Neither admitted nor denied. On August 11, 1995, Mr. Werlinger was informed by Commission staff that it had not received either a response to Mr. Eads' letter or a request for extension of the STA; however, that same day, Mr. Werlinger sent to the Commission via fax a full copy of both his response letter and the request for extension of the STA. Both carried a file copy mark from the Office of the Secretary of the FCC dated August 4, 1995, the date requested in Mr. Eads' letter.

48. Admitted.

49. Admitted.

50. Admitted.

51. Admitted.

52. Denied. In its Modification Application, the proposed site for KFCC's proposed permanent four-tower array was the Harris County site.

53. Admitted.

54. Admitted.

55. Admitted.

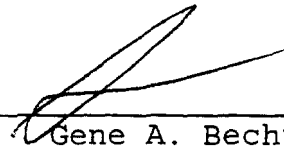
56. Neither admitted nor denied. We defer to the language of the letter itself (Attachment G).

57. Admitted.

58. Admitted.

Attached is the sworn declaration of Mr. Werlinger attesting to the foregoing response.

Respectfully submitted,



Gene A. Bechtel

Bechtel & Cole, Chartered
Suite 250, 1901 L Street, N.W.
Washington, D.C. 20036
Telephone: 202-833-4190
Telecopier: 202-833-3084

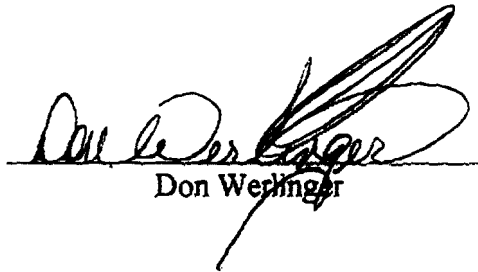
Counsel for Chameleon
Radio Corporation

November 4, 1996

DECLARATION

Don Werlinger declares under penalty of perjury that the following statements are true and correct to his best knowledge and belief:

1. I am President of Chameleon Radio Corporation
2. Factual statements in the foregoing Response To First Request For Admissions, except where reliance is placed on exhibits, are true and correct to the best of my knowledge and belief.




Don Werlinger

November 4, 1996

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing RESPONSE TO FIRST REQUEST FOR ADMISSIONS has this 4th day of November 1996 been delivered by hand to the offices of Alan E. Aronowitz, Esq., Suite 8210, 2025 M Street, N.W., Washington, D.C. 20554 and the Honorable Joseph Chachkin, Administrative Law Judge, Suite 226, 2000 L Street, N.W., Washington, D.C. 20554.



Gene A. Bechtel

21

Facsimile Cover Sheet

KENR Radio 1070 AM

10865 Rockley Road Houston, Texas 77099

To: John Vu
Company: Federal Communications Commission
Phone: 202-418-2670
Fax: 202-418-1411

From: Don Werlinger
Company: KENR Radio
Phone: (713) 564-1070
Fax: (713) 564-8653

Date: 5/2/95
Total Pages: 2

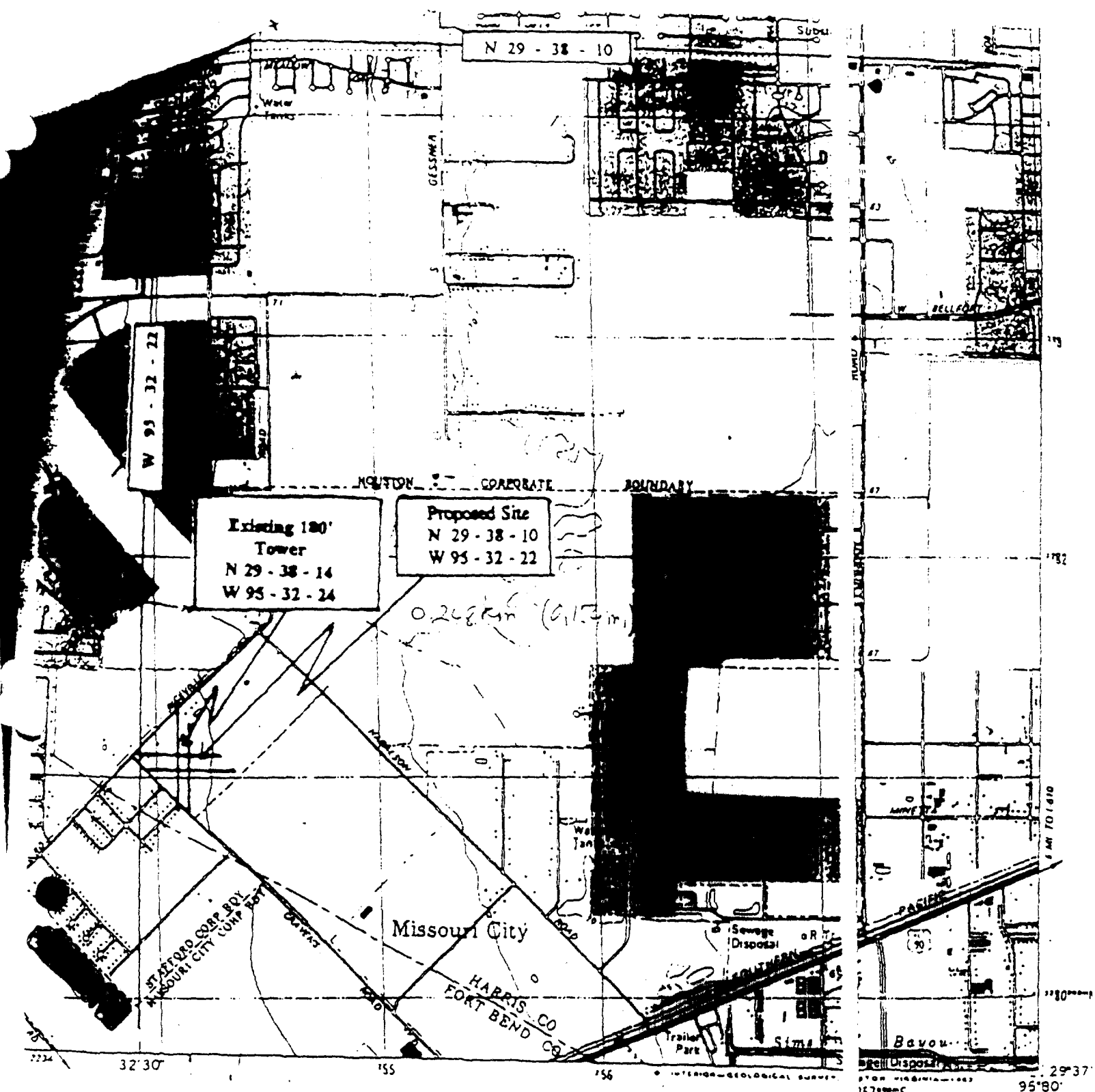
Comments: John,

Federal Communications Commission	
Docket No. <u>96-173</u>	Exhibit No. <u>18</u>
Presented by <u>MMB</u>	
Disposition	Identified <u>X</u>
	Received <u>X</u>
	Rejected <u> </u>
Reporter <u>JS</u>	
Date <u>2-24-97</u>	

Here is an amended Figure: E-1. The only changes we propose to make to the existing 180' tower is the installation of insulators and the folded unipole antenna. The tower in our original proposal will be the center tower of what will be a three tower array. Again, we will have a form 301 to you *within* 30 days of placing the STA on the air. All we need is time to take some readings off the STA site in order to properly design the pattern. I am also sending you a copy of the check we sent with the original STA on form 155. If any questions, please don't hesitate to call me.

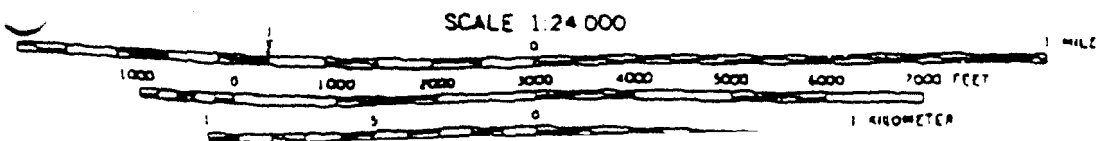
Thank you,


Don Werlinger



Chameleon Radio Corporation
Licensee, Radio Station KIOX
Bay City, Texas
1270 kHz, 1 kw, U, DA-N
Exhibit: E - 1, Page: 1

ROAD CLASSIFICATION
 Primary highway, hard surface _____ Light duty road, hard or improved surface _____
 Secondary highway, hard surface _____ Unimproved road _____
 () Interstate Route () U.S. Route () State Route



ALIEF, TEX.
2937.5-W9530/7.5



COPY

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In re)
)
CHAMELEON RADIO CORPORATION)
)
Order to Show Cause Why the)
License of Station KFCC(AM),) MM Docket No. 96-173
Bay City, Texas Should Not)
Be Revoked)
)
Request for Extension of Special)
Temporary Authority)

To: The Hon. Joseph Chachkin

RESPONSE TO MASS MEDIA BUREAU'S INTERROGATORIES

1. Please explain the basis for the belief that there was a "loss" of the Bay City site as stated in Chameleon's April 21, 1995 request for special temporary authority.

Response: See ¶¶2-7, 10-11, 18(a) and (b) of letter dated September 3, 1996 to Mr. Aronowitz from Mr. Bechtel, subscribed to by Mr. Werlinger, and documents cited therein.

2. Please identify the basis for the answer to interrogatory number 1.

Response: See response to 1.

3. Please explain the basis for the belief that the loss of the Bay City site was "involuntary" as stated in Chameleon's Petition for Review filed on November 2, 1996.

Response: See response to 1.

4. Please explain the basis for any belief that Chameleon does not have access to the Bay City site.

Response: Chameleon has regained access. See letter dated September 13, 1996 to Mr. Aronowitz from Mr. Bechtel, subscribed to by Mr. Werlinger, and documents referred to therein.

5. Please identify the basis for the answer to interrogatory number 4.

Response: See response to 4.

Federal Communications Commission

ocket No. 96-173 Exhibit No. 19

resented by MMB

Identified X

Disposition

Received

Rejected X

Reporter 918

Date 2-24-97

6. Please specify all of Chameleon's obligations with respect to the Bay City site from the time it began negotiations to acquire the KFCC(AM) (then KIOX(AM) license to the present:

Response: See response to 1.

7. Please identify Chanse L. McLeod.

Response: Trustee under Deed of Trust between Chameleon and Landrum Enterprises, Inc. Mr. McLeod is a real estate attorney with the law firm Andrew & Korth, 600 Texas Avenue, Suite 4200, Houston, Texas 77002, telephone number 713-220-4200.

8. Please state your understanding of the March 2, 1995 draft Deed of Trust between Chameleon, as the Mortgagor, Landrum Enterprises, Inc., as the Mortgagee, and Charles L. McLeod, as Trustee.

Response: A draft form of real estate security instrument.

Objection to any further response: The question does not seek relevant information and is not calculated to lead to relevant information.

9. Please explain your understanding of Chanse L. McLeod's duties under the Deed of Trust referenced in interrogatory number 8.

Response: Trustee under real estate security instrument.

Objection to any further response: The question does not seek relevant information and is not calculated to lead to relevant information.

10. Please explain the basis for the filing of the May 2, 1995, amendment to Chameleon's April 22, 1995, request for special temporary authorization.

Response: See ¶¶12-17 of letter dated September 3, 1996 to Mr. Aronowitz from Mr. Bechtel, subscribed to by Mr. Werlinger.

11. Please explain the basis for the identification of an "existing" tower at the second Harris County site in the amended Exhibit E-1 to Chameleon's request for special temporary

authorization tendered on May 2, 1996.

Response: See response to 10. It is understood that there is no "second" Harris County site. See Chameleon's response to admissions nos. 24 and 27.

12. Please explain the basis for Chameleon's failure to cease operations from the second Harris County site after being informed by the FCC staff on May 22, 1995, that KFCC did not provide the requisite signal coverage to the community of license of Bay City.

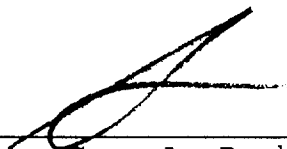
Response: Except for approximately eight days in May 1995 and approximately 20 days in September, Chameleon operated from the Harris County site pursuant to a special temporary authorization. See also ¶¶23-40 of letter dated September 3, 1996 to Mr. Aronowitz from Mr. Bechtel, subscribed to by Mr. Werlinger, and documents referred to therein.

13. Please explain the status of KFCC's present operations from the Bay City site.

Response: KFCC is presently operating from the Bay City site under circumstances described in the letter dated September 13, 1996 to Mr. Aronowitz from Mr. Bechtel, subscribed to by Mr. Werlinger, and documents referred to therein.

The foregoing responses are subscribed to by Mr. Werlinger, whose declaration is attached.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be 'Gene A. Bechtel', written over a horizontal line.


Gene A. Bechtel

Bechtel & Cole, Chartered
Suite 250, 1901 L Street, N.W.
Washington, D.C. 20036
Telephone: 202-833-4190
Telecopier: 202-833-3084

November 25, 1996

DECLARATION

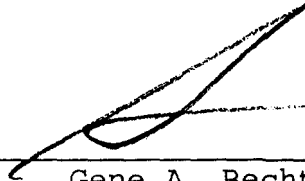
I, Don Werlinger, declare under penalty of perjury that the foregoing "responses" to interrogatories 1 - 13 are true and correct to the best of my knowledge and belief.


Don Werlinger

November 25, 1996

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing RESPONSE TO MASS MEDIA BUREAU'S INTERROGATORIES has this 25th day of November 1996 been mailed to the offices of Alan E. Aronowitz, Esq. Suite 8210, 2025 M Street, N.W., Washington, D.C. 20554 and the Honorable Joseph Chachkin, Administrative Law Judge, Suite 226, 2000 L Street, N.W., Washington, D.C. 20554.



Gene A. Bechtel

20

ORIGINAL

BEGTEL & COLE
CHARTERED
ATTORNEYS AT LAW
SUITE 250
1901 L STREET, N.W.
WASHINGTON, D.C. 20036
TELEPHONE (202) 833-4190

GENE A. BEGTEL

TELECOPIER
(202) 833-3084

September 13, 1996

Via Hand Delivery

Alan Aronowitz, Esq.
Mass Media Bureau
Federal Communications Commission
Suite 8210, 2025 M Street, N.W.
Washington, D.C. 20054

Dear Mr. Aronowitz:

1. This is in further reference to the Commission's "Order to Show Cause, Hearing Designation Order and Notice of Apparent Liability," released August 26, 1996 in re Chameleon Radio Corporation, MM Docket No. 96-173.

Status of operations of KFCC(AM)

2. On or before 9:00PM, September 5, 1996, station KFCC(AM) ceased operation at the Harris County (STA) site, as set forth in Mr. Cole's letter of that date. On September 7, 1996 at approximately 11:00AM, the station commenced operation at the Bay City site containing the licensed three tower array.

Status of situation regarding the Bay City property

3. Chameleon has encountered difficulties in commencing operation at the Bay City site under the terms of Chameleon's lease of the property to the owner of an FM station headquartered there. Chameleon has stated to the Commission that the lease precludes it from re-entering the property to operate KFCC(AM).

Federal Communications Commission

Docket No. 96-173 Exhibit No. 20

Presented by MMB

Identified X

Disposition

Received 98

Rejected Withdrawn

Reporter 98

Date 2-24-97

On that score, Chameleon has twice provided the text of the lease, on August 4, 1995 in response to a letter from Mr. Eads, and as Exhibit 3 of my letter to you dated September 3, 1996.

4. The former tenant of the property (and licensee of the FM station) was Landrum Enterprises, Inc. Its President, Mr. Landrum, provided a contrary statement to the Commission, i.e., that his company's lease of the premises was not a bar to co-use of the site by Chameleon for its AM operations. This raised a question of the credibility of Chameleon or Mr. Landrum in their respective statements to the Commission.

5. In order to comply with the FCC order and commence operations of KFCC(AM) at the Bay City site, Chameleon has in fact re-entered the property over the objection of the current FM station owner who is occupying the property. As the Commission is aware, Mr. Landrum's company no longer is the tenant, having sold the FM station and assigned its leasehold rights, with FCC approval, to Gaujillo Investments, L.L.C. ("Gaujillo"). Gaujillo, the new tenant, does not agree with Mr. Landrum's interpretation of the lease, to put it mildly.¹ See letter of September 12, 1996 hand delivered to Chameleon from Gaujillo's President, Mr. Kirk, demanding that Chameleon vacate the premises or else court action will be taken (attached as Exhibit B).

¹ Nor does John Saunders, the broker who was involved in negotiations of the sale of the AM station by Landrum Enterprises, Inc. to Chameleon in which the lease of the property by Chameleon back to Landrum Enterprises, Inc. (and its assignee) was agreed upon (statement of Mr. Saunders attached as Exhibit A).